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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,054	06/20/2003	John Marshall	007-2	5532

30080 7590 12/22/2005

LAW OFFICE OF CHARLES E. KRUEGER  
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EXAMINER

SAIN, GAUTAM

ART UNIT PAPER NUMBER

2176

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/601,054	MARSHALL, JOHN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gautam Sain	2176	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

- 1) This is the initial NonFinal rejection in response to communication on 11/17/03.
- 2) Claims 1-6 are pending and rejected in this action.
- 3) Effective filing date is 6/20/2003.

***Claim Rejections - 35 USC § 101***

- 4) 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4-1) Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-6 set forth non-functional descriptive material but fail to set forth physical structures or materials comprising of hardware or a combination of hardware and software within the technological arts (ie., a computer) to produce "useful, concrete and tangible" result. For example, Claims 1, and 4, the method reads on mental constructs/abstract idea or at best a computer program, per se. The language such as "web page", "processor", etc., does not clearly define structural elements and are not tangibly embodied on a computer readable medium. Claims 1-6 are interpreted as software per se, abstract ideas or mental construct and not tangibly embodied on a computer readable medium or hardware.

***Claim Rejections - 35 USC § 112***

- 5) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5-1) Claims 1 and 4 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 4, the phrases "such as" and "and so on" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 103***

6) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**6-1) Claims 1 and 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Barg et al (USPGPub 2002/0070953, publish date Jun 13, 2003).**

**Claim 1 and 4**, Barg teaches parsing ... statistics available; determining ... statistics available (ie., web site reporting tool focus on reporting, including parsing/mining engine for web server files. The engine collects, processes, stores and reports on high-volume web site activity)(para 13);

For a first element ... first object (ie., interactive web site activity data visualization system that allow a user to dynamically interact with various graphical data displays generated from the parsed web site activity logs)(para 17);

Modifying the ... first graphic object (ie., views that are displayed together on the same graphical use interface work together to enable a particular type of visual analysis of web pages)(para 33).

Barg does not teach overlay expressly, but does suggest it because Barg does teach the interactive graphical user interface screen and having windows of graphical user interfaces overlap one another on a computer screen was known in the art at the time of the invention.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Barg to include overlaying windows on the web page, with the motivation to to build a graphical web statistic display that is easy to read (see James Robertson article and report on SD-Graph).

**Claim 2 and 5**, Barg teaches constructing a graph ... element (ie., graphical data displays)(para 17).

**Claim 3 and 6**, Barg teaches constructing a chart ... element (ie., pie chart as a report)(para 16).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam Sain whose telephone number is 571-272-4096. The examiner can normally be reached on M-F 9-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on 571-272-4136. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2176

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

C.S.-

GS

*William S. Bashore*  
WILLIAM BASHORE  
PRIMARY EXAMINER  
12/10/2005